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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,594	07/11/2003	Stanley J. Kirla JR.	2125	3715
28152	7590	06/30/2004	EXAMINER	
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			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,594

Applicant(s)

KIRLA, STANLEY J.

Examiner

Mark A. Deuble

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 10 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/23/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Here, there is no claim 16 and claim 17 follows claim 15.

Misnumbered claims 17-18 been renumbered 16-17. *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-4, 7, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stedfeld et al. (U.S. Patent No. 6,158,798).

Stedfeld et al. shows a ramp-rack article 10 used in combination with the bed of a pickup truck as either a downward sloping ramp to the ground on which the vehicle rests and as a rack mounted in pockets along an edge of the bed for containing cargo resting on the bed. The article 10 comprises a lengthwise extending body 20 having a working surface formed by spaced apart beams 40 for supporting objects moving to or from the ground to the bed when the article is used as a ramp and a pair of spaced apart stakes 50 projecting transversely from on edge of the body. The stakes are inserted into the pockets in the bed of the truck to hold the article vertically in place along the length of the bed when the article is used as a rack. When the article is used as a

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ramp, a first end of the body has a surface 42 running at an angle of greater than 180° to the adjacent portion of the working surface which engages the bed and temporarily attaches thereto to support the first end is supported by the truck. Thus Stedfeld et al. shows all the structure required by claims 1, 3-4, 7, and 12.

3. Claims 1,4, 7-9, 11, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Donohue (U.S. Patent No. 3,989,148).

Donohue shows a ramp-rack article 14 used in combination with the bed of a pickup truck as either a downward sloping ramp to the ground on which the vehicle rests and as a rack mounted in pockets along an edge of the bed for containing cargo resting on the bed. The article comprises a lengthwise extending body 20 having a planar and generally continuous working surface 16 for supporting objects moving to or from the ground to the bed when the article is used as a ramp and a 3 spaced apart stakes 24 projecting transversely from on edge of the body. The first end of the article is shaped at 26 to temporarily attach the first end of the article to the edge of the bed so that the first end is supported at the edge of the bed when the article is used as a ramp. When the article is used as a rack, the stakes are inserted into the pockets in the bed of the truck to hold the article vertically in place along the length of the bed. Additionally, pockets are formed in the article in the edge opposite to the stakes for receiving a stake end of a member 38 from above which slightly expands the height of the rack for containment of the cargo. Thus Donohue shows all the structure required by claims 1,4, 7-9, 11, and 16.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 12-13, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stedfeld et al. in view of Schmaltz et al. (U.S. Publication No. 2002/0088065).

Stedfeld et al. shows generally all the structure required by the claims except for the second end running at an angle less than 180° to the plane of the working surface of claims 2 and 17, the hinge means located along the length of the body for enabling the ramp to fold upon itself, the tapered stake of claim 13, and the curbs of claim 15. Schmaltz et al. teaches that a the end of a ramp attached to the truck may be angled at greater than 180° and that the other end may be angled at less than 180° to provide smooth transition surfaces when loading vehicles onto a pickup truck. Schmaltz et al. also teaches that such a ramp may be advantageously provided with hinges to allow the ramp to be folded and stored in a smaller space. Both of these teachings are well known to one of ordinary skill in the art at the time of the invention. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the first and second ends of the article Stedfeld et al. with angles surfaces respectively angles at greater and less than 180° and to provide it with hinges allowing it to fold upon itself. When this is done Stedfeld et al. would show all the structure required by claims 1-7, 12, and 17.

In regard to claim 15, it should be noted that the use of curbs on loading ramps is also well known in the art, as is evidence by at least by Germitz and both patents to Myrick et al.

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Therefore, providing article of Stedfeld et al. with curbs as required by claim 15 would also have been obvious to one of ordinary skill in the art and official notice of this fact is hereby taken.

Finally, in regard to the limitation of claim 13, that the stake is tapered to fit in wedging fashion into the pocket in the bed, it is believed by the examiner that one of ordinary skill in the art at the time of the invention would have understood that a tapered stake would provide tight fit in the pocket. Stedfeld et al. does not employ a tapered stake, presumably because it would be subject to becoming jammed in the pocket making removal difficult. However, the use of a tapered stake would have been understood by one of ordinary skill in the art at the time of the invention and therefore its use is deemed to have been an obvious design choice absent some disclosure in the applicant's specification of some unusual advantage or result. *In re Kuhle*, 188 USPQ 7 (CCPA 1975). Furthermore, the use of the term stake in Stedfeld et al. strongly suggests a pointed or tapered member. This is supported by Merriam Webster's Collegiate Dictionary: 10th Edition which defines stake as "a pointed piece of wood or other material ..."

6. Claims 1-9, 11, 13, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donohue in view of Schmaltz et al. (U.S. Publication No. 2002/0088065).

Donohue shows generally all the structure required by the claims except for the second end running at an angle less than 180° to the plane of the working surface of claims 2 and 17, the hinge means located along the length of the body for enabling the ramp to fold upon itself, the tapered stake of claim 13, and the curbs of claim 15. Schmaltz et al. teaches that a the end of a ramp attached to the truck may be angled at greater than 180° and that the other end may be angled at less than 180° to provide smooth transition surfaces when loading vehicles onto a pickup truck. Schmaltz et al. also teaches that such a ramp may be advantageously provided

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with hinges to allow the ramp to be folded and stored in a smaller space. Both of these teachings are well known to one of ordinary skill in the art at the time of the invention. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the first and second ends of the article Donohue with angled surfaces respectively angles at greater and less than 180° and to provide it with hinges allowing it to fold upon itself. When this is done Donohue would show all the structure required by claims 1-9, 11, and 18.

In regard to claim 15, it should be noted that the use of curbs on loading ramps is also well known in the art, as is evidenced by at least by Germitz and both patents to Myrick et al. Therefore, providing article of Donohue with curbs as required by claim 15 would also have been obvious to one of ordinary skill in the art and official notice of this fact is hereby taken.

Finally, in regard to the limitation of claim 13, that the stake is tapered to fit in wedging fashion into the pocket in the bed, it is believed by the examiner that one of ordinary skill in the art at the time of the invention would have understood that a tapered stake would provide tight fit in the pocket. Donohue does not employ a tapered stake, presumably because it would be subject to becoming jammed in the pocket making removal difficult. However, the use of a tapered stake would have been understood by one of ordinary skill in the art at the time of the invention and therefore its use is deemed to have been an obvious design choice absent some disclosure in the applicant's specification of some unusual advantage or result. *In re Kuhle*, 188 USPQ 7 (CCPA 1975). Furthermore, the use of the term stake in Stedfeld et al. strongly suggests a pointed or tapered member. This is supported by Merriam Webster's Collegiate Dictionary: 10th Edition which defines stake as "a pointed piece of wood or other material ..."

Allowable Subject Matter

7. Claims 10 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Aberia, Hays, Schouest, and Leblanc all show truck-loading ramps having features similar to those of the present invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (703) 305-9734. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher P Ellis can be reached on (703) 308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md


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